

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
SPRINGFIELD

DONALD P. MULLER

v. PLAINTIFF

WESTFIELD POLICE DEPARTMENT

JOSE TORRES

EDWARD O'BRIEN

MICHAEL COACH

MICHAEL McCABE

PAUL SAMATARO

DEFENDANTS

DOCKET NO. 3:04-cv-30185-KPN

U.S. DISTRICT COURT  
DISTRICT OF MASS.  
COLIN

P 2:43

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

AMENDED COMPLAINT

**JURISDICTION**

Jurisdiction of this Honorable Court is invoked pursuant to Title 42 U.S.C.S., §1983, 1985(3). Title 28 U.S.C.S. §§1333, 1651, 2201, 2202.

PLAINTIFF seeks to pursue claims in counts one through thirteen as set forth in this amended complaint.

COUNT ONE CAUSE OF ACTION

1. On November 27, 1992 Westfield Police Officers Jose Torres, O'Brien, McCabe and Coach did break down the door to Plaintiff's apartment knowing that Plaintiff had a knife with the butt end up against the door and the sharp end against his chest in violation of Plaintiff's 4<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendment U.S. Constitutional rights and Massachusetts Constitutional Rights, Part the First Art. 1 and 14, and Mass. General Law C. 265 § 15

COUNT TWO CAUSE OF ACTION

2. On November 27, 1992 Westfield Police Officers Jose Torres, O'Brien, McCabe and Coach did break down the door to Plaintiff's apartment without a warrant in violation of Plaintiff's 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment Constitutional Rights Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14

COUNT THREE CAUSE OF ACTION

3. On November 27, 1992 Westfield Police Officers Jose Torres, O'Brien, McCabe and Coach did break down the door to Plaintiff's apartment causing a knife wound to Plaintiff's abdomen 4 cm. in violation of Plaintiff's

4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment Constitutional Rights Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14, and Mass. General law C.265 § 15.

COUNT FOUR CAUSE OF ACTION

4. On November 27, 1992 Westfield Police Officers Jose Torres, O'Brien, McCabe, and Coach did break down the door to Plaintiff's apartment and then used chemical mace upon Plaintiff's Face and upper body excessively causing First Degree Facial burn from mace in violation of Plaintiff's 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment U.S. Constitutional Rights Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14.

COUNT FIVE CAUSE OF ACTION

5. On November 27, 1992 Westfield Police Officers Jose Torres, O'Brien, McCabe and Coach did break down the door to Plaintiff's apartment and then used a second can of chemical mace upon Plaintiff's Face and upper body as Plaintiff was on his back on the floor screaming from the pains of the stab wound and the first can of chemical mace causing First Degree Facial burn from excessive use of chemical mace in violation of Plaintiff's 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment U.S. Constitutional Rights Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14.

COUNT SIX CAUSE OF ACTION

6. While Plaintiff was on the floor on his back he witnessed a Westfield Police Officer place the knife on the floor on the left side of Plaintiff this after finding the knife in the corner behind the door where Plaintiff dropped it immediately after being stabbed from officers breaking down the door and then pictures were taken, this in an attempt to collaborate false statements that were made in Police Officer Jose Torres Police report stating "at this time he still had a knife in his hand." - . . .

COUNT SEVEN CAUSE OF ACTION

7. Further Westfield Police Officer Jose Torres and other Police Officers produced False Arrest-Custody Report charging Plaintiff with False charge of Assault w/Dang. Weapon in violation of 209A, M.G.L. C.265 § 15 B

COUNT EIGHT CAUSE OF ACTION

8. Further Westfield Police Officer Jose Torres and other Police Officers produced False Application For Complaint with False charge of Assault with a Dangerous Weapon in violation of 209A citing inapplicable M.G.L. C.265 § 15A with False statements including "When police forced our way in Mr Muller stabbed himself with the knife he was holding." Thus above COUNTS 6, 7, and 8 in violation of Plaintiffs 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment U.S. Constitutional Rights, Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14, and Mass. General Laws C. 266 § 67B and C. 268 § 6A

COUNT NINE CAUSE OF ACTION

9. Further through the False statements by Westfield Police officer Jose Torres and other officers a False charge of Assault By Dangerous weapon C.265§ 15 B (c.209A) with False statement "did, by means of a dangerous weapon, knife, assault Ann Muller, in violation of G.L. c.265, § 15 B. did appear on the Summons and Complaint, thus Plaintiff was Falsely charged, Falsely arrested and Falsely imprisoned in violation of Plaintiffs 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment U.S. Constitutional Rights, Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14

COUNT TEN CAUSE OF ACTION

10. Further on November 27, 1992 while Plaintiff was in the Noble Hospital Emergency Room Westfield Police officer Jose Torres and other Police Officers inveigled Noble Hospital staff to state False statements by stating to Nurse Jasrulski "Reported that Pt. threatened to kill his wife and also had a ~~gut~~ knife(error) in his mouth to kill himself." In violation of Plaintiffs 4<sup>th</sup>, 8<sup>th</sup>, and 14<sup>th</sup> Amendment U.S. Constitutional Rights, Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14.

COUNT ELEVEN CAUSE OF ACTION

11. On November 27, 1992 Plaintiff was dragged out into the hallway and witnessed a balding headed Police officer apply excessive force by forcing his hand over Plaintiff's mouth and nose forcing Plaintiff's head hard to the floor smothering Plaintiff trying to stop Plaintiff from screaming in agony from the stab wound and being maced.

COUNT TWELVE CAUSE OF ACTION

12. On November 27, 1992 Westfield Police Officer dispatcher Samataro in calling for more back up to help resolve this matter sent two other Police Officers arrived at the scene with a battering ram knowing that Plaintiff would be stabbed if they broke down the door in a conspiracy to violate MGL 265 § 15. Thus above counts 11 and 12 in violation of Plaintiff's 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment U.S. Constitutional Rights, Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14.

COUNT THIRTEEN CAUSE OF ACTION

13. On May 21, 1993 Plaintiff had a Jury Trial in Holyoke court where Westfield Police officer Jose Torres and another Police officer whose name is unknown at this time appeared in Holyoke Court to try and prosecute and convict Plaintiff on False charges of Assault against former wife Ann Miller. Westfield Police officers were under oath in a court of law in the state of Massachusetts and did in fact testify False statements in an effort to procure a guilty finding. In violation of Plaintiff's 4<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendment U.S. Constitutional Rights, Article 7 and Mass. Constitutional Rights, Part the First Art. 1 and 14 and Mass General Law C. 268 § 1.

Defendants, [all named] hereinabove did knowingly and intentionally committed violations of Plaintiff's ESTABLISHED Federal constitutional rights, privileges and immunities, and Federal and State STATUTORY LAW(S) and FEDERAL SUPREME COURT; COURTS OF APPEALS and prior U.S. DISTRICT COURT decisions relevant to each claim and CAUSES OF ACTIONS, complained of within this CIVIL RIGHTS COMPLAINT, proving the prima facie violation of Plaintiff's Federal Constitutional rights.

PLAINTIFF'S PRAYER AND DEMANDS FOR RELIEF

wherefore, the Plaintiff, DONALD R. MULLER, pro se do hereby respectfully request and demands, that this Honorable Court, grant him, the following relief;

1. Issue declaratory and injunctive relief on all claims and issues Plaintiff has presented hereinabove in this Federal civil complaint.
2. That this Court AWARD, in monetary amounts, of THREE MILLION DOLLARS (\$3,000,000.00) in compensatory damages to be paid by the defendants, to the Plaintiff.
3. That this Court AWARD in monetary amounts of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00) in punitive damages to be paid by the defendants, to the plaintiff.

4. That this Court Grant the Plaintiff a jury trial on all claims and issue triable, which are guaranteed by Plaintiff's SEVENTH AMENDMENT U.S. CONSTITUTIONAL rights.
5. That this Court Grant the Plaintiff the rights and opportunity to AMEND this Civil Complaint with additional claims and causes of actions whenever such issues are revealed to him by the defendants, and/or others.

I, DONALD P. MULLER, do hereby  
Date: December 31, 2004 state under the pains and penalty  
of perjury, that all facts stated  
hereinabove are true to the best  
of my knowledge and belief.

Donald P. Muller

DONALD P. MULLER pro se

769 WASHINGTON STREET

SPRINGFIELD MASS. 01105

CERTIFICATE OF SERVICE

I Donald P. Muller, do hereby certify that a true copy of the foregoing documents was served upon the defendants attorney by U.S. Mail, postage prepaid, addressed to Peter H. Martin, BBO No. 552020, Assistant City Solicitor, 59 Court Street, Westfield Mass. 01085 on this 31<sup>st</sup> day of December 2004.

Donald P. Muller pro se  
DONALD P. MULLER

I, DONALD P. MULLER, do hereby state under the pains and penalty of perjury, that all facts stated herein above are true to the best of my knowledge and belief.

Donald P. Muller

DONALD P. MULLER pro se  
769 WORRINGTON STREET  
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